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5 Attorneys for Defendant
DEAN D. WESTON

E-filing

FILED
APR 18 2012 MD
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

HRL

10 SAN JOSE DIVISION

11 C V 12 1939
Case No.

✓ 11 BERNARD PICOT and
12 PAUL DAVID MANOS,

13 Plaintiff,

14 vs.

15 DEAN D. WESTON and
16 DOES 1 through 15, inclusive,

17 Defendants.

NOTICE OF REMOVAL

18 TO THE CLERK OF THE ABOVE ENTITLED COURT:

19 PLEASE TAKE NOTICE that defendant DEAN D. WESTON hereby removes to this Court
20 the state court action described below.

21 1. On March 23, 2012, an action was commenced in the Superior Court of the State of
22 California in and for the County of Santa Clara entitled *BERNARD PICOT and PAUL DAVID*
23 *MANOS v. DEAN D. WESTON, and DOES 1 through 15 inclusive*, as case number 112-CV-221295.
24 The Complaint is attached hereto as Exhibit A.

25 2. Defendant DEAN D. WESTON was personally served with a copy of the original
26 complaint on March 23, 2012.

JURISDICTION

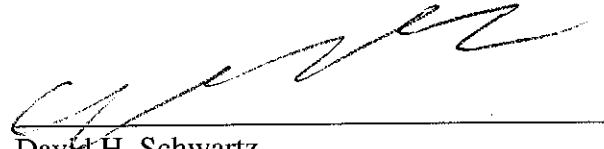
3. This action is a civil action of which this Court has original subject matter jurisdiction under 28 U.S.C. §1332 because the parties are of diverse citizenship and the matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 USC § 1332, or \$75,000. The amount in controversy alleged in the state court complaint is \$200,000. (Complaint ¶ 10.2) Plaintiff BERNARD PICOT is a citizen of California, (Complaint ¶ 1.1) Plaintiff PAUL DAVID MANOS is a citizen of Nevada, (Complaint ¶ 1.2) and Defendant DEAN WESTON, the only named defendant, has been a citizen of Michigan both at the time the state court action was filed and at the time of this removal. (Complaint ¶ 2.1)

INTRADISTRICT ASSIGNMENT

4. The state court complaint being removed was filed in the Superior Court for the County of Santa Clara. Pursuant to Local Rule 3-2 (e) should be assigned to the San Jose Courthouse.

DATED: 4/18/, 2012

LAW OFFICES OF DAVID H. SCHWARTZ


David H. Schwartz

Attorneys for Defendants DEAN D. WESTON

EXHIBIT A

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

DEAN D. WESTON, and
DOES 1 through 15, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

BERNARD PICOT and
PAUL DAVID MANOS

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LOS JUECES)
FILED

MAR 23 2012

Judge: _____
Clerk: _____
By: _____

C.A. Pinacate

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. AVISO: Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de extensión de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desahogar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

SANTA CLARA COUNTY SUPERIOR COURT [UNLIMITED]
191 NORTH FIRST ST, SAN JOSE, CA 95113

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
THOMAS M. BOEHM, 2 NORTH SANTA ANITA AV, STE 211, LOS GATOS, CA 95030 408.998.8899

DATE:
(Fecha)

3/30/12

Clerk, by:
(Secretario)

C.A. Pinacate

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (Form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

[SERIAL]

1. ☒ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other (specify):

- ☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)

4. ☒ by personal delivery on (date):

SUMMONS

ENDORSED
FILED

MAR 23 2012

David M. Boehm, Clerk of the Superior Court
County of Santa Clara, California
By:

1 THOMAS M. BOEHM (SBN 63888)
2 LAW OFFICE OF THOMAS M. BOEHM
3 2 North Santa Cruz Avenue, Suite 211
4 Los Gatos, CA 95030-5900

5 TELEPHONE: 408.998.8899
6 FACSIMILE: 408.998.4848

7 ATTORNEY FOR PLAINTIFFS

8 COMPLAINT.mpd

9

10

11

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

12

UNLIMITED CIVIL JURISDICTION

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16

BERNARD PICOT and
PAUL DAVID MANOS,

17

PLAINTIFFS,

CASE NO. 112 CV 221245

18

19

v.

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DEAN D. WESTON, and
DOES 1 through 15, inclusive,

22

DEFENDANTS.

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COMPLAINT

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COMPLAINT.....

GENERAL ALLEGATIONS

1 PLAINTIFF:

2 1.1 BERNARD PICOT ["PICOT"] is a natural person and a resident of Santa
3 Clara County, California; and,

4 1.2 PAUL DAVID MANOS ["MANOS"] is a natural person and a resident of
5 Nevada.

6
7
8 2 PLAINTIFFS are informed and believe, and thereupon allege that:

9 2.1 DEAN D. WESTON ["WESTON"] is a natural person and a resident of
10 Michigan;

11 2.2 All of the DEFENDANTS, including those currently fictitiously named, were
12 aliases for and/or acting as agents, servants and co-conspirators of and with
13 the knowledge and consent of each other, all within the course and scope
14 of said relationship/s;

15 2.3 Venue is proper in this County, as PICOT resides here and suffered
16 damages here from the acts of DEFENDANT/S; and.

17 2.4 PLAINTIFFS' damages exceed the jurisdictional minimum of this Court.

18
19 3 PLAINTIFFS:

20 3.1 Are unaware of the identities of DEFENDANTS named herein as
21 DOES 1 through 15, inclusive, and therefore sue these
22 DEFENDANTS by such fictitious names;

23 3.2 Will amend this pleading to set forth the true names when they are
24 ascertained; and,

25 3.3 Will amend this pleading to conform to proof at trial.

26 //

27
28 COMPLAINT.....

FIRST CAUSE OF ACTION

For DECLARATORY RELIEF

1
2
3
4 PLAINTIFFS incorporate by reference all the preceding allegations.

5
6 In or about December 2011, PLAINTIFFS entered into a written contract
7 [the "CONTRACT"] for the sale of certain assets to the buyer designated
8 in the CONTRACT.

9
10 6 The CONTRACT contemplates payments to be made by the buyer to
11 and/or at the direction of PICOT and MANOS from its execution and,
12 thereafter, into the future.

13
14 7 PLAINTIFFS are informed and believe, and thereupon allege that there is
15 an actual, present, and ongoing controversy between them, on the one
16 hand, and WESTON, on the other hand, in that:

17 7.1 WESTON contends PICOT and MANOS are jointly and severally
18 obligated by agreement to pay him:

19 7.1.1 \$20,000 per month from and after March 2009 as a
20 "salary;" and,

21 7.1.2 ONE THIRD [1/3] of all money received by PICOT and
22 MANOS pursuant to the CONTRACT to date and into the
23 future; but,

24 7.2 PLAINTIFFS PICOT and MANOS deny WESTON'S contentions in
25 all respects and contend to the contrary.

26
27 8 PLAINTIFFS PICOT and MANOS seek a declaration from this Court in

accordance with their denials and contentions.

WHEREFORE, PLAINTIFFS PICOT and MANOS pray for relief as later set forth.

SECOND CAUSE OF ACTION

For INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS

PLAINTIFFS incorporate by reference all the preceding allegations.

PLAINTIFFS are informed and believe, and thereupon allege that:

10.1 WESTON committed intentional and unjustified acts, which actually interfered with and disrupted the CONTRACT, while he possessed both knowledge of the existence of the CONTRACT and a substantial certainty that interference with and disruption of the CONTRACT would be a consequence of his acts;

10.2 As a direct and proximate result of the foregoing, PLAINTIFFS have been damaged as follows:

10.2.1 In the amount of \$200,000, with interest thereon at the legal rate from and after March 12, 2012 until the same is received;

10.2.2 In the amount of future payments under the CONTRACT that are found to have been interfered with and/or disrupted by the acts of WESTON, with interest thereon at the legal rate from and after each such payment shall fall due until the same is received;

10.2.3 Attorney's fees, costs, and other expenses incurred

and to be incurred by PLAINTIFFS in addressing the interference and disruption to the CONTRACT caused by WESTON; and,

10.3 PLAINTIFFS are entitled to punitive damages against WESTON pursuant to California Civil Code § 3294 in an amount sufficient to punish and not less than \$75,000.

WHEREFORE, PLAINTIFFS pray for relief as later set forth.

PRAYER

11 PLAINTIFFS pray for judgment against WESTON as follows:

11.1 On the 1st Cause of Action for a declaration in accordance with PICOT's and MANOS's denials of WESTON'S contentions and own contentions to the contrary, in all respects;

11.2 For damages on the 2nd Cause of Action as follows:

11.2.1 In the amount of \$200,000, with interest thereon at the legal rate from and after March 12, 2012 until the same is received;

11.2.2 In the amount of future payments under the CONTRACT that are found to have been interfered with and/or disrupted by the acts of WESTON, with interest thereon at the legal rate from and after each

such payment shall fall due until the same is received:

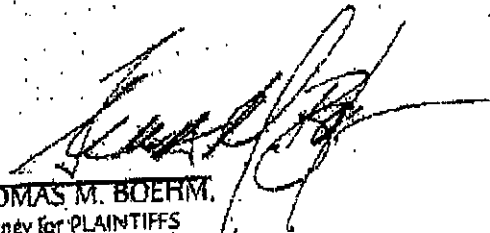
11.2.3 Attorney's fees, costs, and other expenses incurred
and to be incurred by PLAINTIFFS in addressing the
interference and disruption to the CONTRACT
caused by WESTON; and,

11.2.4 Punitive damages against WESTON pursuant to
California Civil Code § 3294 in an amount sufficient
to punish and not less than \$75,000.

11.3 For costs of this action.

11.4 For such other and/or further relief as is appropriate.

DATED: March 23, 2012


THOMAS M. BOEHM,
Attorney for PLAINTIFFS

//

AFFIDAVIT OF SERVICE

Bernard Picot, et al. v. Dean D. Weston

United States District Court, Northern District of California No. _____

I declare that I am a citizen of the United States; I am over 18 years of age; my business address is One Market Street, Steuart Tower, Suite 1600, San Francisco, California 94105. I am employed in the City and County where this mailing occurred.

On April 18, 2012, I served **NOTICE OF REMOVAL** by sealing a true copy in an envelope for service in the manner(s) specified addressed to:

Thomas M. Boehm
Law Offices of Thomas M. Boehm
2 North Santa Cruz Avenue, Suite 211
Los Gatos, CA 95030

*Representing Plaintiffs Bernard Picot and
Paul David Manos*
(408) 998-8899 Phone
(408) 998-484 Fax

✓ **BY MAIL:** I deposited such envelope(s) for collection and mailing at my business address. In the ordinary course of business, such envelope(s) will be deposited with the U.S. Postal Service on that same day.

____ **BY HAND DELIVERY:** I caused such envelope(s) to be hand delivered to the designated addressee(s).

____ **BY FEDERAL EXPRESS:** I caused such envelope(s) to be delivered via Federal Express to the addresses(s) designated.

____ **BY FACSIMILE:** I caused said documents to be transmitted to the telephone number(s) of the addressee(s) designated.

I declare under penalty under the laws of the United States of America that the foregoing information contained in the Affidavit of Service is true and correct. Executed in San Francisco, California on April 18, 2012.



Liana J. Ignes